

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

GEORGE JENNINGS and CATHERINE
JENNINGS,

Plaintiffs,

v.

PORTFOLIO RECOVERY ASSOCIATES,
LLC,

Defendant.

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No. 1:11-cv-328

PLAINTIFFS' COMPLAINT AND DEMAND FOR JURY TRIAL

GEORGE JENNINGS and CATHERINE JENNINGS (Plaintiffs), through their attorneys, KROHN & MOSS, LTD., allege the following against PORTFOLIO RECOVERY ASSOCIATES, LLC, (Defendant):

INTRODUCTION

1. Plaintiffs' Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."
4. Defendant conducts business in the state of Texas, and therefore, personal jurisdiction is established.

5. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)*.

PARTIES

6. Plaintiffs are natural persons residing in Cedar Park, Williamson County, Texas.
7. Plaintiffs are consumers as that term is defined by 15 *U.S.C. 1692a(3)*, and according to Defendant, Plaintiffs allegedly owe a debt as that term is defined by 15 *U.S.C. 1692a(5)*.
8. Defendant is a debt collector as that term is defined by 15 *U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiffs.
9. Defendant is a national debt collection company and conducts business in Texas.

FACTUAL ALLEGATIONS

10. Defendant is collecting from Plaintiff on an alleged debt owed to a bank in Delaware for a credit card.
11. Upon information and belief, Defendant placed collection calls to Plaintiffs every other day and sometimes on consecutive days. On days when Defendant called Plaintiffs, it would place up to three calls per day.
12. Defendant placed automated collection calls and left messages on Plaintiffs' answering machine on a regular basis.
13. On occasion when Defendant placed automated collections calls and Plaintiffs answered, a live person claimed that Plaintiffs owed a debt. Although Plaintiffs requested the information be sent in writing, Defendant failed to do so and continued to call.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

14. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse the Plaintiffs in connection with the collection of a debt.
- b. Defendant violated §1692d(5) of the FDCPA when Defendant caused Plaintiffs' telephone to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiffs.

WHEREFORE, Plaintiffs, GEORGE JENNINGS and CATHERINE JENNINGS, respectfully request judgment be entered against Defendant, PORTFOLIO RECOVERY ASSOCIATES, LLC, for the following:

15. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
16. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k* , and
17. Any other relief that this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,

Dated: April 21, 2011

By: /s/Michael Agruss,

Michael Agruss Esq.

CA SBN: 259567

Attorney for Plaintiffs

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DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiffs, GEORGE JENNINGS and CATHERINE JENNINGS, demand a jury trial in this case.

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF TEXAS

Plaintiff, GEORGE JENNINGS, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.

Pursuant to 28 U.S.C. § 1746(2), I, GEORGE JENNINGS, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

4/12/2011

Date

George R Jennings
GEORGE JENNINGS

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF TEXAS

Plaintiff, CATHERINE JENNINGS, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.

Pursuant to 28 U.S.C. § 1746(2), I, CATHERINE JENNINGS, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

4-13-11

Date

Catherine Jennings
CATHERINE JENNINGS